

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division  
In Admiralty**

In the Matter of COEYMANS MARINE  
TOWING, LLC D/B/A CARVER MARINE  
TOWING as Owner and Operator of M/T  
Mackenzie Rose, (IMO No. 8968765), *et al.*

**Civil Action No. 2:24-cv-00490-MSD-LRL**

**NORFOLK AND PORTSMOUTH BELT LINE RAILROAD  
COMPANY’S BRIEF IN SUPPORT OF ITS MOTION FOR SANCTIONS**

Claimant/Respondent Norfolk and Portsmouth Belt Line Railroad Company (“Belt Line”), by counsel, pursuant to Fed. R. Civ. P. 30 and 37, and Local Rules 30 and 37, submits this Brief in Support of its Motion for Sanctions against James Morrissey for failure to attend his deposition scheduled for June 24, 2025.

**I. FACTUAL BACKGROUND**

Mr. Morrissey’s deposition was noticed for June 24, 2025, at 10:00 a.m. CST in Panama City, Florida. ECF No. 58. Mr. Morrissey was personally served with a subpoena and received mailed and emailed copies of the Notice of Deposition. Despite adequate notice and advance efforts to ensure his appearance, Mr. Morrissey failed to attend his deposition. Though he contacted counsel for Belt Line on the afternoon of June 25, 2025, he provided no justification for his failure to attend his deposition the day before. While he made oral promises to travel to Norfolk, Virginia to be deposed on June 30, 2025, Mr. Morrissey failed to follow through with any written assurance of traveling and attending at his own expense and thereafter failed to respond to attempts to communicate with him.

## **II. LEGAL STANDARD**

Under Rule 37(d)(1)(A)(i), a court may order sanctions if a party fails, after being served with proper notice, to appear for a deposition. Sanctions may include attorneys' fees, costs, orders compelling compliance, and any "just orders" under Rule 37(d)(3). The failure must be without "substantial justification."

## **III. ARGUMENT**

Mr. Morrissey's conduct justifies sanctions:

He is a party and was properly noticed. Though not required, he was also subpoenaed to attend. He stated to counsel for Belt Line that he had received actual notice via email and by personal service of the subpoena. See ECF No. 58.

His failure to appear was without justification and is prejudicial to Belt Line and other parties. His failure to appear deprived Belt Line of the opportunity to obtain testimony in a time-sensitive admiralty case before expert reports were due on July 2, 2025. Additionally, Belt Line incurred significant expenses, including travel costs, attorney fees for time spent traveling to Florida, and court reporting expenses.<sup>1</sup>

No communication was received from Mr. Morrissey before his scheduled deposition. Though Mr. Morrissey called counsel for Belt Line the following day and stated he would travel

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<sup>1</sup> Travel expenses for the trip to depose Mr. Morrissey in Florida, including one night's lodging, meals, taxis, parking and airfare totaled \$1,116.39. Attorney's fees incurred by Belt Line for the attendance of James L. Chapman, IV are for 6.5 hours travel to Panama City, Florida, 1.0 hour attending the deposition at which Mr. Morrissey failed to appear, and 6.2 hours return travel at \$400/hour, totaling \$5,480. Fees for time spent preparing for the deposition are not requested with this motion but will be requested and itemized in the event Mr. Morrissey fails to attend any court-ordered deposition. Fees of the court reporter and videographer will be submitted to the Court upon receipt.

to Norfolk, Virginia to be deposed on June 30, 2025, he subsequently failed to provide written assurance of attending. Since then, he has not responded to multiple attempts to reach him.

Mr. Morrissey's failure not only violates the Federal Rules but also disrupts judicial efficiency and must be sanctioned as required by the Rules of Civil Procedure.

#### **IV. REQUESTED RELIEF**

NPBL respectfully requests that the Court:

1. Compel Mr. Morrissey to appear for deposition within 14 days at the office of counsel for the Belt Line;
2. Award attorneys' fees, travel expenses, and court reporter and videographer costs incurred by the Belt Line in connection with the failed deposition;
3. Issue an appropriate warning to Mr. Morrissey that any further failure to comply may result in dispositive or evidentiary sanctions.

Dated: July 3, 2025

NORFOLK AND PORTSMOUTH BELT  
LINE RAILROAD COMPANY

By: /s/ James L. Chapman, IV  
James L. Chapman, IV, VSB No. 21983  
W. Ryan Snow, VSB No. 47423  
Mackenzie R. Pensyl, VSB No. 100012  
CRENSHAW, WARE & MARTIN, P.L.C.  
150 W. Main Street, Suite 1923  
Norfolk, Virginia 23510  
Telephone: (757) 623-3000  
Facsimile: (757) 623-5735  
[jchapman@cwm-law.com](mailto:jchapman@cwm-law.com)  
[wrsnow@cwm-law.com](mailto:wrsnow@cwm-law.com)  
[mpensyl@cmw-law.com](mailto:mpensyl@cmw-law.com)  
*Attorneys for Norfolk and Portsmouth Belt  
Line Railroad Company*

**CERTIFICATE OF SERVICE**

I certify that on this 3rd day of July, 2025, I served the foregoing by electronic mail on the following:

James H. Rodgers, Esq. (*pro hac vice*)  
CLYDE & CO US LLP  
The Chrysler Building  
405 Lexington Avenue  
New York, New York 10174  
(212) 702-6771  
(212) 710-3950  
[James.Rodgers@clydeco.us](mailto:James.Rodgers@clydeco.us)

Harold L. Cohen, Esq.  
CLYDE & CO US LLP  
1221 Brickell Ave #1600  
Miami, Florida 33131  
(202) 747-5108  
(202) 747-5150  
[Harry.Cohen@clydeco.us](mailto:Harry.Cohen@clydeco.us)

Rachel Werner, Esq. (*pro hac vice*)  
CLYDE & CO US LLP  
One North Central Avenue, Suite 1030  
Phoenix, Arizona 85004  
(480) 746-4580  
(480) 746-4569 Direct  
(480) 746-4556 Fax  
[Rachel.werner@clydeco.us](mailto:Rachel.werner@clydeco.us)

Michael Roman, Esq. (*pro hac vice*)  
Dawn Johnson, Esq. (*pro hac vice*)  
Siobhan Murphy, Esq. (*pro hac vice*)  
CLYDE & CO US LLP  
30 S. Wacker Drive, Ste 2600  
Chicago, IL 60606  
Tel No.: (312) 635-6971  
Fax No.: (312) 635-6950  
[Michael.Roman@clydeco.us](mailto:Michael.Roman@clydeco.us)  
[Dawn.Johnson@clydeco.us](mailto:Dawn.Johnson@clydeco.us)  
[Siobhan.murphy@clydeco.us](mailto:Siobhan.murphy@clydeco.us)  
*Attorneys for Coeymans Marine Towing, LLC,  
d/b/a Carver Marine Towing*

Mark C Nanavati, Esq. (VSB #38709)  
G. Christopher Jones, Jr., Esq. (VSB #82260)  
SINNOT, NUCKOLS & LOGAN, P.C.  
13811 Village Mill Drive  
Midlothian, Virginia 23114  
(804) 893-3866 (Nanavati)  
(804) 893-3862 (Jones)  
(804) 378-2610 (Fax)  
[mnnavati@snllaw.com](mailto:mnnavati@snllaw.com)  
[cjones@snllaw.com](mailto:cjones@snllaw.com)  
*Counsel for Evanston Insurance Company, s/s/o  
Norfolk and Portsmouth Belt Line Railroad  
Company*

Zachary M. Jett, Esq. (VSB #93285)  
BUTLER WEIHMULLER KATZ CRAIG LLP  
11525 N. Community House Rd, Suite 300  
Charlotte, North Carolina 28277  
(704) 543-2321  
(704) 543-2324 (Fax)  
[zjett@butler.legal](mailto:zjett@butler.legal)  
*Counsel for Evanston Insurance Company  
s/s/o Norfolk and Portsmouth Belt Line  
Railroad Company*

James Morrissey  
4723 Baywood Drive  
Lynnhaven, FL 32444  
[jdmorrissey15@gmail.com](mailto:jdmorrissey15@gmail.com)

*s/James L. Chapman, IV*